

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FAISAL MOHAMMAD QAZI,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. H-06-1574
	§	
ALBERTO R GONZALES, <i>et al</i> ,	§	
	§	
Defendant.	§	

MEMORANDUM OPINION AND ORDER

Pending before the court is Defendants' motion to dismiss and remand this case to the Houston District Office of the United States Citizenship and Immigration Services ("USCIS") (Doc. 5). Plaintiff Faisal Mohammad Qazi("Qazi") is unopposed to Defendants' motion provided the court instructs Defendants to expeditiously act on his application for naturalization.

Qazi is a Pakistani citizen and legal permanent resident of the United States. In June 2005, he filed an application for naturalization based on his marriage to an American citizen. On June 29, 2005, USCIS requested that the FBI perform a background check. USCIS interviewed Qazi on January 3, 2006, triggering a statutorily prescribed 120-day period for USCIS to complete the naturalization process. *See* 8 U.S.C. § 1447(b); *see also El-Daour v. Chertoff* , 417 F.Supp.2d 679, 683 (W.D.Pa. 2005) (finding that interview date triggers statutory period). To date, no action has been taken on Qazi's application.

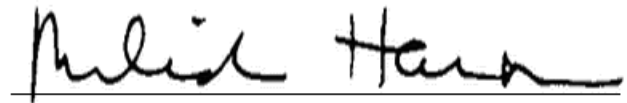
Title 8 United States Code Section 1447(b) confers jurisdiction on the District Courts of the United States to either determine a claimant's naturalization or remand the matter, with appropriate instructions, to USCIS.

The issues presented here have already been discussed in numerous District Court opinions. *See e.g., Khelifa v. Chertoff* , 433 F.Supp.2d 836, 842-43 (E.D.Mich. 2006); *Khan v.*

Chertoff, 2006 WL 2009055, at *2 (D. Ariz. 2006); *Al-Kudsi v. Gonzales*, 2006 WL 752556, at *3 (D.Or. 2006); *Castracani v. Chertoff*, 377 F.Supp.2d 71, 75 (D.D.C. 2005). After reviewing these cases, the court has determined that the appropriate approach is to remand the case to USCIS with an instruction. *See Eng v. Chertoff*, H-06-1302 (S.D.Tex. Aug. 21, 2006).

Accordingly, the court ORDERS that Defendants' motion to dismiss is DENIED and Defendant's motion to remand is GRANTED. Defendant Alberto Gonzales is instructed to direct the F.B.I. to complete the required background check on Qazi within the next 120 days and deliver it to USCIS. USCIS will then make a prompt determination on Qazi's application. In the meantime, this case will be administratively closed, but should further review become necessary, Qazi may notify the Court, and the action will be reinstated.

Signed at Houston, Texas, this 6th day of February, 2007.

A handwritten signature in black ink, appearing to read "Melinda Harmon", written over a horizontal line.

Melinda Harmon
United States District Judge